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October 17, 2003

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Marlene H. Dortch
Secretary
Federal Communications Commission
445 Twelfth Street, S.W., Room TB-B204
Washington, D.C. 20554

OCT 17 2003

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

**Re: WC Docket No. 03-194 – Application by Qwest
Communications International Inc. for Authority to
Provide In-Region InterLATA Services in the State
of Arizona**

Dear Ms. Dortch:

Qwest Communications International Inc. ("Qwest") submits herein one original and four copies of its reply comments in the above-referenced proceeding.

Included in Qwest's reply comments is a Reply Declaration that contains confidential information. Specifically, Reply Exhibit LAH-13 to the Reply Declaration of Lynn M V Notarianni and Loretta A. Huff contains CLEC-specific performance data. Therefore, pursuant to the Commission's September 4, 2003, *Public Notice* in this proceeding (DA-03-2799), Qwest is submitting under separate cover the confidential portion of Reply Exhibit LAH-13.

Kindly date-stamp the additional copy of this letter and return it to the awaiting messenger. Any questions concerning this submission should be addressed to the undersigned.

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Letter to Ms. Dortch

October 17, 2003

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Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Yaron Dori', with a stylized, cursive script.

Yaron Dori

cc: Cathy Carpino
Janice Myles
Gary Remondino
Ryan Harsch

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In the Matter of)	
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Qwest Communications)	
International Inc.)	WC Docket No. 03-194
)	
Application for Authority to)	
Provide In-Region, InterLATA)	
Services in Arizona)	

REPLY COMMENTS OF
QWEST COMMUNICATIONS INTERNATIONAL INC.

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October 17, 2003

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Before the
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**REPLY COMMENTS OF
QWEST COMMUNICATIONS INTERNATIONAL INC.**

Pursuant to the Commission's *Public Notice*, DA 03-2799 (September 4, 2003), Qwest Communications International Inc. ("Qwest") hereby submits its reply comments in the captioned proceeding.

**I. THE ARIZONA CORPORATION COMMISSION AND DEPARTMENT
OF JUSTICE AGREE THAT QWEST'S APPLICATION SHOULD BE
GRANTED**

The record in this proceeding is very strong and in large measure uncontested. No party has disputed – or can dispute – that Qwest has opened the local market in Arizona to competition using the same systems, processes and policies that the Commission already has approved in every other state in Qwest's region. The handful of minor issues raised by competitors in this proceeding are easily addressed in the reply comments below. The Commission can – and should – approve Qwest's Application promptly, allowing Arizona consumers to receive the

same competitive benefits already enjoyed by consumers in Qwest's 13 other in-region states.

Both the Arizona Corporation Commission ("ACC") and the U.S. Department of Justice ("DOJ") have concluded in their respective recommendations that Qwest satisfies Section 271's competitive checklist requirements. The ACC has catalogued for the Commission the rigorous four-year process during which it comprehensively evaluated Qwest's compliance with Section 271.¹ According to the ACC, all of Qwest's local systems and processes were subject to "an unprecedented collaborative, participative workshop process characterized by extensive discovery, prefiled testimony and workshops."²

With regard to Qwest's Operations Support Systems ("OSS") and performance measures, the ACC states that "during the last four years, Qwest's systems, processes and performance measurements have undergone one of the most comprehensive reviews to date."³ "This [four] year proceeding," the ACC observes, "resulted in an extremely rigorous [OSS] test, resolution of many disputed issues through compromise, and meaningful and effective changes to Qwest's systems and processes."⁴ More generally, during every facet of the ACC's review, the ACC "sought to ensure that all affected parties were afforded the opportunities to present

¹ See generally ACC Comments at 1-25.

² *Id.* at 3.

³ *Id.* at 5.

⁴ *Id.*

their views . . . before any conclusions were reached on questions of compliance.”⁵

This exhaustive process provides further assurance that the local market in Arizona is irreversibly open to competition.

The DOJ, for its part, also unconditionally recommends that the Commission grant this Application.”⁶ The DOJ expressly recognizes that Qwest’s Application presents essentially the same record, including performance data, that the Commission previously has approved three times in connection with Qwest’s 13 other in-region states.⁷

Only three CLECs filed comments in this proceeding, collectively raising a mere handful of issues.⁸ As explained more fully below, none of these issues has merit, let alone materially distinguishes the record in Arizona from that in the other Section 271-approved Qwest in-region states. The Commission should approve Qwest’s Application here without delay.

II. SPRINT SIMPLY REPEATS ITS STANDARD PUBLIC INTEREST ARGUMENTS THAT THE COMMISSION HAS ROUTINELY REJECTED IN THE PAST

Only one party, Sprint, filed comments opposing Qwest’s Application on public interest grounds.⁹ Sprint claims that grant of Qwest’s Application would

⁵ *Id.*

⁶ DOJ Evaluation at 2.

⁷ *See id.*

⁸ Commission staff recently asked Qwest to address some additional issues, few of which were raised by CLECs in their comments. Qwest’s responses to these questions can be found in Attachment A to these reply comments.

⁹ *See Sprint Comments at 1, 4-10.*

not be in the public interest because (1) the Competitive Local Exchange Carrier (“CLEC”) industry is under financial pressure; (2) Bell Operating Companies (“BOCs”) are not competing against one another in their respective regions; and (3) only minimal competition exists in Arizona. Each of these claims was raised by Sprint – and rejected by the Commission – in previous Qwest Section 271 proceedings.

Sprint’s first two arguments once again can be dismissed out of hand. Contrary to Sprint’s unsubstantiated assertions, neither the financial condition of individual participants in the telecommunications marketplace nor the activities of BOCs outside their regions are relevant to the Commission’s statutorily-mandated review under Section 271. Sprint’s remaining allegation – that Qwest has failed to satisfy the requirements of Section 271(1)(C)(A) of the Communications Act (“Track A”) in Arizona – is nonsense and refuted by the record in this proceeding. Local exchange competition is thriving in Arizona at levels far above the standards required by Section 271.¹⁰ As of May 31, 2003, Qwest was providing 37,719 stand-

¹⁰ The Commission has made clear that a BOC can satisfy Track A – and thus demonstrate that a sufficient level of competition exists in a particular state – by showing that at least one predominantly facilities-based CLEC is “an actual commercial alternative” to the BOC. See *Alabama, Kentucky, Mississippi, North Carolina, and South Carolina 271 Order*, 17 FCC Rcd at 17755-56 (¶ 284 n.1100) (noting Section 271 applications were granted in Connecticut with 0.1% residential competition, in Vermont with 0.28%, Maine with 0.55% and New Jersey with 1.32%); *New Jersey 271 Order*, 17 FCC Rcd at 12281 (¶ 10); *Kansas/Oklahoma 271 Order*, 16 FCC Rcd at 6257 (¶ 42); *Michigan 271 Order*, 12 FCC Rcd at 20585 ¶ 78. This can be done by demonstrating that the CLEC serves “more than a *de minimis* number” of subscribers. In New Jersey, a CLEC serving no more than 733 residential access lines was deemed to satisfy the *de minimis* standard. See *New Jersey 271 Order*, 17 FCC Rcd at 12281-83 (¶¶ 11-13, n.33 & n.41). A CLEC serving no more than 345 residential lines satisfied the standard in Vermont. *Vermont 271 Order*, 17 FCC Rcd at 7630 (¶ 11); see also *DOJ Vermont Evaluation* at 5 n.19.

alone unbundled loops to 14 CLECs, and 62,713 UNE-Ps to 12 CLECs in Arizona.¹¹ Further, as of May 31, 2003, Qwest had completed 507 CLEC collocations and provided 185,480 local interconnection trunks so CLECs can access and interconnect with Qwest's network.¹²

In its evaluation of Qwest's Application, the DOJ expressly found that CLECs have sufficient access to all three modes of competitive entry in Arizona: facilities-based, UNEs, and resale.¹³ Sprint contends that the level of competition in Arizona is insufficient because "competition in the residential market is generally *de minimis*."¹⁴ But, to the contrary, as the DOJ expressly noted – and as the evidence in this record demonstrates – CLECs, most of which are facilities-based, serve over 11 percent of all residential lines in Arizona.¹⁵ The Commission repeatedly has rejected any suggestion that it should "require [a] particular level of market penetration,"¹⁶ and Congress has "specifically declined to adopt a market share or other similar test for BOC entry into long distance."¹⁷ Sprint's comments

¹¹ See Declaration of David L. Teitzel, State of Local Exchange Competition Track A and Public Interest Requirements, at ¶15.

¹² See *id.*

¹³ See DOJ Comments at 5-6.

¹⁴ See Sprint Comments at 8.

¹⁵ See DOJ Comments at 5-6.

¹⁶ See, e.g., *New Jersey 271 Order*, 17 FCC Rcd 12281-82 (¶¶ 10, 13); *Michigan 271 Order*, 12 FCC Rcd at 20585 (¶ 77); *Qwest III 271 Order*, 17 FCC Rcd at 26314, 26318-19 (¶¶ 20), 32. The Court of Appeals for the D.C. Circuit has affirmed that the Act "imposes no volume requirements for satisfaction of Track A." *Sprint v. FCC*, 274 F.3d at 553-54; see also *SBC Communications Inc. v. FCC*, 138 F.3d at 416 ("Track A does not indicate just how much competition a provider must offer in either the business or residential markets before it is deemed a 'competing' provider").

¹⁷ *Qwest Nine-State Order*, 17 FCC Rcd 26303, 26318-19 (¶ 32).

are a rehash of arguments that it made – and that the Commission rejected – in earlier Section 271 proceedings.¹⁸ There is no reason to accord them any weight here.

III. THE COMMISSION SHOULD REJECT AT&T'S ATTEMPT TO MANUFACTURE A SECTION 271 ISSUE REGARDING DS1 SPECIAL CONSTRUCTION

AT&T's comments are brief and focus almost entirely on a single issue involving a single subject: the application of special construction charges in DS1 loop provisioning where network modification is needed. The Commission can answer AT&T easily by referring to Qwest's Application, in which Qwest describes its current DS1 construction policies.¹⁹ Qwest also is reviewing the recent *Triennial Review Order* to guide its policies in this area. Qwest is in full compliance with its checklist obligations, and AT&T's issue here is a non-issue, let alone a Section 271-affecting issue.

AT&T contends that the Commission should deny Qwest's Application because Qwest allegedly "reversed the loop provisioning policy described in its prior

¹⁸ See *id.* Sprint also asserts, as it did in the Qwest Nine-State, Three-State and Minnesota proceedings, that "Qwest's methodology [for estimating CLEC market share] improperly inflates the CLECs' line estimates by including CLECs' high speed data lines and local lines which are not used for competitive local service." Sprint Comments at 9. But here, too, the Commission already has expressly rejected Sprint's argument in each of Qwest's prior Section 271 proceedings. See, e.g., *Minnesota 271 Order* at ¶ 61, n.229 (citations omitted). Regardless of how Sprint's, or any other CLEC's, customers use their access lines – that is, whether they connect a telephone to them and use them for voice, or connect a modem and use them for IP dial-up service – Qwest is directly competing to provide the same product: a two-way, voice-grade retail access line. The Commission has never suggested that a BOC must adjust its CLEC retail access line data to reflect the type of traffic an end user may be sending over the line at any particular moment, especially since the same access line can be used for both voice and data at different times during the same day.

¹⁹ See Declaration of William M. Campbell, Unbundled Loops, at ¶ 55; Declaration of Karen A. Stewart and Lori A. Simpson, Access to UNEs, at ¶ 22.

Applications by charging for loop conditioning activities performed for CLECs ordering DS1-capable loops.”²⁰ But AT&T misrepresents the circumstances here, as well as the action Qwest took to address CLEC concerns relating to this issue.

AT&T’s comments purport to describe a series of actions that Qwest and CLECs undertook relating to DS1 loop provisioning. However, AT&T “spins” the facts to its own purpose. Stated simply, on April 30, 2003, Qwest issued a Change Management Process (“CMP”) Notification to CLECs clarifying that Qwest would not construct DS1 loops out of spare copper facilities at no extra charge if those facilities could not support DS1 service without modification. In issuing this CMP Notification, Qwest was applying its own SGAT, pursuant to which requesting CLECs should have been charged in these cases.²¹ Qwest issued this CMP Notification, which had an effective date of June 16, 2003, after the company discovered that CLECs were not being charged under the SGAT. Indeed, it was precisely because CLECs had erroneously not been charged that, apparently, Qwest’s CMP Notification was perceived by some as a policy change.

Qwest’s application of its DS1 loop construction policy on June 16 drew concerns from CLECs. AT&T purports to describe these views in its comments.²² But rather than credit Qwest for working to resolve them, AT&T mischaracterizes

²⁰ AT&T Comments at 1. Eschelon Telecom, Inc. also addressed Qwest’s DS1 provisioning policy in a recent *ex parte* filing. See Eschelon Ex Parte, WC Docket No. 03-194, October 14, 2003 (“Eschelon October 14 Ex Parte”), at 2-3.

²¹ SGAT § 9.1.2.

²² See AT&T Comments at 5-19.

Qwest's conduct, claiming, for example, that Qwest's description of its DS1 loop conditioning policy in its Application is "misleading."²³

When CLECs expressed concerns about Qwest's April 30 CMP Notification, Qwest took action. At the August 15, 2003, CMP meeting, Qwest notified CLECs that it would not adhere to its stated policy. Indeed, five days later, on August 20, 2003, Qwest memorialized this commitment in a General Notification to CLECs.²⁴ As a result, the same general approach to DS1 loop provisioning that the Commission approved in Qwest's earlier Section 271 Applications was in effect when Qwest filed its Application in this proceeding on September 4, 2003.²⁵ Qwest did not then – and does not today – assess charges for conditioning DS1 loops.²⁶

AT&T attempts to make something of the fact that Qwest's August 20 General Notification to CLECs was revised several times, contending, inexplicably, that "[t]he frequency and extent of these changes only provide an additional basis

²³ See *id.*

²⁴ See Qwest General Notification, released August 20, 2003, and attachment, available at www.qwest.com/wholesale/cnla/uploads/GENL%2E08%2E20%2E03%2EF%2E01537%2EDS1CapableLoop%5FCRUNEC%2Edoc and www.qwest.com/wholesale/cnla/uploads/QwestInterimProcess-UNBUNDLEDLOCALLOOP-DS1CAPABLELOOPANDCRUNEC8-20-2003-FINAL.doc.

²⁵ After August 20, and pursuant to CLEC input, Qwest issued subsequent CMP Notifications to ensure that it had returned to the same approach to DS1 loop provisioning that was used prior to June 16. Some of these CMP Notifications became effective after Qwest filed its Application in this proceeding. For example, on August 27, 2003, Qwest issued a CMP Notification addressing the process of removing three or more load coils. This CMP Notification, which had an effective date of September 5, 2003, was proposed by Qwest as a "Level 1 Notification," rather than a "Level 3 Notification," so it could be implemented expeditiously. Similar Notifications and changes were made by Qwest through the CMP in response to CLEC input.

²⁶ In fact, as a result of Qwest's subsequent conduct, a complaint filed by Cbeyond in Colorado in connection with this issue has been withdrawn. It is worth noting that Eschelon cited this complaint in its recently-filed *ex parte* without acknowledging that it has been withdrawn by Cbeyond and thus resolved by the Colorado Public Utilities Commission. See Eschelon October 14 Ex Parte at 2.

for questioning whether the changes are cosmetic,” as opposed to good faith efforts by Qwest.²⁷ But, in reality, Qwest revised its August 20 General Notification in part to reassure CLECs that Qwest would continue to provision DS1 loops in the same manner it did prior to June 16.²⁸ AT&T is being disingenuous when it suggests that these substantive changes were merely “cosmetic” – particularly in light of the fact that AT&T concedes that, collectively, they show that Qwest has indeed returned to its pre-June 16 approach.

AT&T also argues that Qwest’s labeling of the initial (and a subsequent) version of Qwest’s August 20 General Notification as “interim” implies a lack of permanence to Qwest’s approach.²⁹ This simply is not true. Qwest used the term “interim” at the time merely to reflect the fact that rates for constructing DS1 loops from existing DS0 facilities had not yet been developed. This was expressly discussed in Qwest’s Application in this proceeding.³⁰ Moreover, to accommodate CLEC concerns, Qwest agreed to no longer use the word “interim”

²⁷ AT&T Comments at 24.

²⁸ AT&T claims that Qwest misused the CMP because its various Notifications did not conform to the CMP document. See AT&T Comments at 17. But Qwest’s Notifications did not violate CMP because those Notifications were not intended to change Qwest’s pricing of incremental facilities work; rather, they were intended to reaffirm that Qwest would be adhering to its existing policy. AT&T’s suggestion that Qwest inappropriately classified its actions as a “Level 3” change (as opposed to a “Level 4” change) also is misplaced. See *id.* at 15-17. Under the CMP, CLECs have the ability to object to Qwest’s classifications. Significantly, no CLEC opposed – or sought escalation of – Qwest’s “Level 3” classification when its first CMP Notification was issued on April 30. Had a CLEC opposed or escalated the CMP Notification, its concern would have been addressed at that time.

²⁹ See AT&T Comments at 20-21.

³⁰ See Access to UNEs Declaration at ¶ 22; Unbundled Loops Declaration at ¶ 55 (both noting that Qwest’s policy “will remain in effect until rates for the construction of DS1 loops from existing DS0 facilities can be developed”). These rates have not yet been developed because Qwest is still in the process of reconciling its policy with the requirements of the Commission’s *Triennial Review Order* and any applicable Arizona cost docket to address cost recovery issues.

when describing its DS1 provisioning process, effective with CMP Notifications issued on or after September 15, 2003.

AT&T also speculates – without any support – that “there is ample reason to believe that, as soon as [Qwest’s Arizona] Application is approved, Qwest will reinstate the revised process that it purportedly withdrew.”³¹ The Commission has repeatedly held that unsupported assertions in opposition to a Section 271 application are not persuasive.³² Moreover, AT&T’s “prediction” fails to take into account the Commission’s recent *Triennial Review Order*, which appears to require companies such as Qwest to fulfill DS1 loop orders with existing DS0 facilities where possible.³³

Thirty days ago, in the *Michigan 271 Order*, the Commission determined that Michigan Bell satisfied Checklist Item 7, in part because it successfully had corrected a number of faulty end user E911 records prior to filing

³¹ AT&T Comments at 25. Eschelon makes similarly speculative statements about the DS1 provisioning policy that Eschelon concedes Qwest has already corrected. See Eschelon October 14 Ex Parte at 3.

³² See, e.g., *Texas 271 Order*, 15 FCC Rcd 18354, 18375 (¶ 50) (2000) (“When considering commenters’ filings in opposition to the BOC’s application, we look for evidence that the BOC’s policies, procedures, or capabilities preclude it from satisfying the requirements of the checklist item. Mere unsupported evidence in opposition will not suffice.”); *Arkansas and Missouri 271 Order*, 16 FCC Rcd 20719, 20786-87 (¶ 135) (2001) (“[W]e find that . . . representations that the Missouri municipalities franchise requirements are ‘onerous’ and that SWBT as the incumbent receives preferential treatment are unsubstantiated and are insufficient reason to determine this application is not in the public interest.”); *New York 271 Order*, 15 FCC Rcd 3953, 4139 (¶ 371) (1999) (rejecting number portability complaints by CLECs as “unsupported, conclusory allegations that do not warrant a finding of noncompliance” with checklist item 11).

³³ See *In the Matter of Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, CC Docket No. 01-338, *Report and Order on Remand and Further Notice of Proposed Rulemaking*, FCC 03-36, rel. August 21, 2003, at ¶ 634.

its Section 271 Application with the Commission.³⁴ The Commission reached this conclusion even though Michigan Bell issued multiple – and arguably inconsistent – policy statements (in the form of Accessible Letters) during the pendency of Michigan Bell's Section 271 proceeding.³⁵ This case is much easier. In this proceeding, Qwest addressed CLEC concerns raised in connection with its DS1 loop provisioning policy prior to filing its Application for Section 271 authority, and issued subsequent Notifications regarding that policy shortly thereafter.

In any event, AT&T has not presented anything to demonstrate that Qwest is failing to meet the checklist requirements of Section 271. The company is in compliance with Section 251 in an area that was only recently clarified in the *Triennial Review Order*. The Commission should reject out of hand AT&T's attempt to manufacture a Section 271 issue where none exists.

IV. COMMENTERS RAISE NO MATERIAL ISSUES REGARDING THE COMPLIANCE OF QWEST'S OSS WITH CHECKLIST ITEM 2

Not surprisingly, Qwest's OSS record here draws little attention from the commenters. The Commission already has reviewed and approved the company's region-wide OSS several times in other Section 271 applications, and nothing is different in Arizona. AT&T and MCI attempt to raise a few narrow issues, but, as demonstrated below, none of them comes close to justifying denial of this Application. To the contrary, the paucity of OSS issues here underscores the

³⁴ See *Michigan 271 Order* at ¶ 150.

³⁵ See *id.* at ¶¶ 144-149.

lengths to which Qwest has gone to meet its checklist obligations and open its systems to CLECs.

A. Qwest Has in Place Adequate Procedures for Correcting Software Issues in New Releases

AT&T and MCI attempt to argue that Qwest's procedures for correcting software defects in new releases are inadequate and that Qwest should establish firm timeframes for correcting those defects.³⁶ They also argue that Qwest incorrectly treats software defects as documentation problems and that Qwest should provide logs of all trouble reports.³⁷

These arguments are without merit and should be dismissed. As explained in the OSS Reply Declaration, Qwest's production support procedures, which are embodied in the collaboratively negotiated Change Management plan (or "CMP Framework"), are fully adequate to satisfy the requirements of Section 271.³⁸ The current CMP Framework, which was a product of CLEC/Qwest negotiation and agreement in the change management redesign process, adequately addresses the issue of software defect corrections.³⁹ Section 12 of the CMP Framework requires Qwest to categorize troubles by severity level and to correct Severity 1 and 2 troubles "immediately by means of an emergency Release of process, software, or

³⁶ AT&T Comments at 26-29; MCI Comments at 1-2.

³⁷ *Id.*

³⁸ Reply Declaration of Lynn M V Notarianni and Loretta A. Huff, Operations Support Systems, at ¶¶ 5-26. The CMP Framework is included as an exhibit to the Declaration of Judith M. Schultz, Change Management, at Exh. JMS-CMP-2.

³⁹ See Change Management Declaration at ¶¶ 8-16 (containing a description of the CMP redesign process).

documentation (known as a Patch),” and to implement a workaround if implementation of the Patch is not deemed timely.⁴⁰ Severity 3 and 4 tickets “may be implemented when appropriate taking into consideration upcoming Patches, Major Releases and Point Releases and any synergies that exist.”⁴¹ These provisions are adequate to ensure that software defects are corrected promptly.⁴²

AT&T contends that Section 271 requires Qwest to adopt stricter timeframes for correcting software defects, pointing to MCI’s request to change the CMP Framework to incorporate timeframes that are modeled on the BellSouth Change Control Process (“CCP”).⁴³ Qwest did not agree with this proposed amendment to the CMP Framework when it was introduced, and therefore proposed an alternative approach. That alternative proposal would add to the CMP specified timeframes for correcting software defects but with the addition of flexibility to announce different timeframes in particular cases to accommodate the fact that some fixes require more time (due to their complexity or other factors) than others.⁴⁴ MCI rejected Qwest’s proposal, requested a CMP vote on its own change request (“CR”), and Qwest voted “no.”⁴⁵ Qwest acted reasonably in refusing to agree to

⁴⁰ CMP Framework at §§ 12.3, 12.5.

⁴¹ *Id.* at § 12.3.

⁴² See OSS Reply Declaration at ¶¶ 9-10.

⁴³ AT&T Comments at 26-28.

⁴⁴ OSS Reply Declaration at ¶¶ 12-13, Reply Exhibits LN-6 and LN-4.

⁴⁵ OSS Reply Declaration at ¶ 13, Reply Exhibit LN-4.

MCI's inflexible timeframes and in proposing an alternative aimed at satisfying the CLECs' issues.⁴⁶

Although the MCI CR was not approved, through the CMP process CLECs and Qwest are continuing to discuss how the CLEC interest in specific deadlines for resolving software defects can be reconciled with Qwest's need for flexibility in scheduling fixes.⁴⁷ The ACC has indicated that it is comfortable with this approach. Indeed, at its September 8, 2003, open meeting, the ACC considered an MCI letter raising these same issues but concluded that they were not Section 271-affecting and that the CMP process was adequate to take care of such concerns.⁴⁸

AT&T separately contends that Qwest routinely (and improperly) classifies its software defect problems as documentation defects.⁴⁹ But these concerns are misplaced. First, as appropriate, Qwest labels some of the troubles identified in the production support process as software defects and corrects them through software changes. But, second, many other troubles identified through the production support process actually are documentation defects; therefore, they should be properly labeled as such and corrected by revisions to the documentation.

⁴⁶ By agreement of the CLECs and Qwest during the CMP redesign process, any amendment of the CMP requires a unanimous vote. CMP Framework at § 2.1.

⁴⁷ OSS Reply Declaration at ¶¶ 14, 17, 23.

⁴⁸ See OSS Reply Declaration at ¶ 7 and Reply Exh. LN-3 (excerpt from ACC September 8, 2003 meeting); Reply Exhibit LN-1 (MCI Letter); Reply Exhibit LN-2 (Qwest Response).

⁴⁹ AT&T Comments at 26.

As a proposed method for closing this nonexistent “loophole,” AT&T offers the MCI CR noted above, because that CR would impose the BellSouth timeframes on both software and documentation defects. But AT&T is being cute. That comparison neglects to mention that the BellSouth plan on which the MCI CR is modeled actually excludes documentation defects from the established timeframes applicable to correction of software defects, and sets up a separate path, with different milestones, for the correction of documentation defects.⁵⁰ Thus, the BellSouth plan, like Qwest’s, recognizes that some troubles are properly corrected through documentation revisions rather than through software changes. As explained in the OSS Reply Declaration, if Qwest’s systems and software are operating properly, it would be unreasonable to require Qwest to change the system simply to match the documentation if only the documentation is incorrect.⁵¹

Of course, cases will arise in which a judgment must be made as to whether a systems change or a documentation change is warranted (or both). But in the only example that AT&T offers (involving multiple call-blocking features), Qwest clearly acted reasonably by both supplementing the documentation involving blocking and including a systems change with the 14.0 IMA release (which is scheduled to be implemented on December 8, 2003).⁵²

⁵⁰ OSS Reply Declaration at ¶¶ 18-19; *see also* Reply Exh. LN-9 (BellSouth CCP).

⁵¹ OSS Reply Declaration at ¶¶ 15-17.

⁵² *See* OSS Reply Declaration at ¶¶ 20-21.

Contrary to MCI's contention in its comments, Qwest also is not required under Section 271 to provide CLECs with all the trouble reports that flow through the Qwest Help Desk or that are identified internally by Qwest.⁵³ In this regard, MCI cites an AT&T CR submitted in February 2003, which Qwest has opposed but which is still the subject of discussion and negotiation in the CMP process.⁵⁴ As Qwest explained in response to the AT&T CR, a large volume of troubles are reported (approximately 1300) every month. Some affect all CLECs, but a high percentage are CLEC-specific and some contain proprietary content. It would make little sense to require Qwest to catalog these trouble reports for all CLECs. Qwest acted reasonably in opposing the original AT&T CR and is continuing to discuss alternatives with CLECs that would accomplish their goals.⁵⁵

In short, the production support procedures in Qwest's CMP provide adequate measures for timely correction of both software and documentation defects, and satisfy the requirements of Section 271.

⁵³ See MCI Comments at 2; OSS Reply Declaration at ¶¶ 22-23.

⁵⁴ See OSS Reply Declaration at ¶¶ 22-23.

⁵⁵ *Id.* As discussed in the OSS Reply Declaration, in preparing these Reply Comments, Qwest discovered that not all Event Notifications have been issued as required by Section 12.5 of the CMP Framework, although the underlying defects were fixed. OSS Reply Declaration at ¶¶ 24-25. Qwest informed CLECs of this issue in an *ad hoc* CMP meeting on October 14, 2003. It appears that there was some confusion on the part of certain Qwest IT personnel regarding the range of circumstances in which Event Notifications must be issued. *Id.* These personnel have been instructed in correct procedures and Qwest expects to issue future notifications consistent with the CMP requirements. *Id.*

B. Qwest's Reject Rate Levels Meet the Commission's Requirements

Only one party, MCI, commented on Qwest's reject rates.⁵⁶ Notably, CLEC reject rates have improved significantly in recent months from levels already approved in Qwest's prior Section 271 applications. MCI acknowledges that its own reject rate was 29 percent as of the week of September 15, 2003.⁵⁷ Qwest's CLEC-specific reject rate data for August 2003 (the most recent full month for which such data is available) support this figure.⁵⁸ MCI now claims that "a 29% reject rate is too high."⁵⁹ But the Commission has consistently held that reject rates between 27 and 34 percent meet the requirements of Section 271.⁶⁰ Qwest's reject rate data for August indicates that the aggregate CLEC reject rate was below 26 percent that month, and that the CLEC submitting the second highest volumes of Local Service Requests that month (MCI had the highest volume) had a reject rate of under 11 percent.⁶¹ Qwest will continue to work with MCI – and all other requesting CLECs – in an effort to lower their reject rates even further. But, in the meantime, Commission precedent supports a finding of Section 271 compliance in this area.

⁵⁶ See MCI Comments at 1.

⁵⁷ See *id.* The 29% reject rate cited by MCI pertains to LSRs submitted via Qwest's IMA-EDI interface.

⁵⁸ See Reply Exh. LAH-13 (Exhibit LAH-OSS-54A, Chart of CLEC-Specific Flow-Through and Reject Rates Under PO-2 and PO-4, Updated with Data from August 2003).

⁵⁹ MCI Comments at 1.

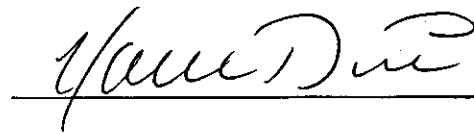
⁶⁰ See, e.g., *Minnesota 271 Order* at ¶ 25, n.72 (citing *Bell Atlantic New York Order*, 15 FCC Red 4044, ¶ 175, n.552).

⁶¹ See Reply Exh. LAH-13 (Exhibit LAH-OSS-54A, Chart of CLEC-Specific Flow-Through and Reject Rates Under PO-2 and PO-4, Updated with Data from August 2003).

CONCLUSION

The paucity of comments here is not surprising. Qwest's region-wide systems, policies and processes have already been found Section 271-compliant in prior proceedings, and the record here compels the same finding with respect to Arizona. The few issues raised in this docket are minor, repeat claims previously made, or simply distort the record. None of these issues rise to the level of being Section 271-affecting. Grant of Qwest's Application clearly will bring the benefits of competition to consumers in Arizona. The Commission should grant Qwest's Application promptly.

Respectfully submitted,



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RESPONSES TO COMMISSION STAFF QUESTIONS

1. *Eschelon claims to have experienced high reject rates (e.g., 44% in a given week). How do Eschelon's reject rates compare to those of other CLECs?*

A discussion of recent CLEC-specific reject rates can be found in Section IV(B) of Qwest's Reply Comments and Section II of the Reply Declaration of Lynn M V Notarianni and Loretta A. Huff, Operations Support Systems. As explained in those documents, CLEC-specific reject rates have improved considerably in recent months. See Reply Comments at 17; OSS Reply Declaration at ¶ 27. While Eschelon may have experienced elevated reject rates recently in connection with Local Service Requests ("LSRs") submitted electronically through the IMA-EDI interface, other CLECs have not had this experience. For instance, in August, the most recent full month for which such data is available, ten CLECs submitted higher volumes of LSRs via IMA-EDI than Eschelon, and each of those CLECs achieved reject rates within or below the 27 to 34 percent range the Commission previously found acceptable in earlier Section 271 proceedings. See OSS Reply Declaration at ¶ 27; Reply Exhibit LAH-13. The Commission has repeatedly held that "variation in competing LECs' individual reject rates suggests that [a] disparate reject rate may be a function of the competing carrier's experience using the BOC's system, rather than the system itself." *Minnesota 271 Order* at n.72. Eschelon has not presented any credible evidence that its elevated reject rates have been caused by Qwest's systems.

2. *Eschelon's September 18, 2003, ex parte filing in this proceeding included a copy of a letter MCI sent to ACC Commissioner William Mundell on August 26, 2003. See Eschelon Ex Parte, WC Docket No. 03-194, September 18, 2003, resubmitted with page numbers on October 8, 2003, at 107-109. Issue four in that letter (on page 108 of Eschelon's ex parte filing) made certain allegations regarding Qwest's documentation. Please respond to those allegations.*

All of the issues raised in MCI's August 26, 2003, letter (OSS Reply Exhibit LN-1) were addressed by Qwest in a September 4, 2003, response to that letter (OSS Reply Exhibit LN-2). Notably, the ACC considered all of the issues raised in MCI's letter at its September 8, 2003, open meeting and concluded that the issues raised are being appropriately handled through the CMP and do not affect Qwest's Section 271 compliance. See Arizona Corporation Commission,

Reporter's Transcript of Proceedings, Volume II, September 8, 2003, at 220-230.

3. *Please comment on whether and how PIDs OP-5 and PO-20 are related.*

The currently reported PID OP-5 evaluates new service installation quality, measuring the percentage of average monthly new order installations that were free of trouble for 30 calendar days following installation. The standard under which Qwest's performance is assessed under this PID depends on the product, but typically is parity with Retail service. Results, which are reported by state, are calculated based on repair trouble reports received from customers within the 30 calendar day period.

The currently reported PID PO-20 evaluates Qwest's manual service order accuracy. It does so by comparing the fields with customer address, Purchase Order Number and due date information on the CLEC's LSR to the resulting Qwest service order that is manually processed. The standard under which Qwest's performance is assessed under this PID is 95%. Results, which are reported on a regionwide basis for Resale/UNE-P POTS and Unbundled Loops, are calculated based on a sample of orders rather than on customer-reported troubles.

The only relationship between OP-5 and PO-20 is that the service orders reviewed under PO-20 are a sample of the service orders included in the denominator of OP-5. A new version of OP-5 was recently developed in the Long Term PID Administration ("LTPA") process, and a revised version of PO-20 is currently under negotiation (see below). Revisions to these PIDs began in concert; as a result, the data they report in the future is not expected to overlap.

4. *Please describe and provide the status of changes being made to PO-20.*

Discussions pertaining to the modification of PID PO-20 have been ongoing since before the first ad hoc LTPA meeting in November 2002. Over 20 additional ad hoc conference calls have taken place regarding new service quality and order accuracy issues. PO-20 currently is under discussion in LTPA, and, to date, the parties have agreed that the revised PO-20 will be mechanized and expanded to review all manually processed service orders and additional products, as defined by the PID.

In the course of LTPA discussions, the parties have already resolved a number of issues pertaining to PO-20. In fact, the Arizona Corporation Commission Staff's two content-related recommendations – to expand the fields included in PO-20 and to include CLEC reports or service order errors – have already been incorporated. These changes, and presumably others, will become effective once the LTPA's collaboration on PO-20 is complete.

In the course of LTPA discussions pertaining to OP-5 and PO-20 in July 2003, CLECs requested that revisions to OP-5 be completed first. Revisions to OP-5 were finalized on August 6, 2003. On August 27, 2003, the LTPA group resumed discussions on PO-20, and a subsequent meeting to discuss PO-20 issues was held on October 1, 2003. The next meeting is scheduled for October 23, 2003. Information continues to be exchanged between the parties. As discussed in the Declaration of Dean Buhler, Performance Measures, the parties have informally agreed not to disclose details of these discussions outside of LTPA calls to nurture a conducive working environment.

5. *Does Qwest's IMA software contain defects, and, if so, what is the timetable for correcting them?*

Allegations pertaining to defects in Qwest's software errors are addressed on pages 12-16 of Qwest's Reply Comments and in Section I of the OSS Reply Declaration.

6. *Has the Arizona Corporation Commission addressed the software defect issue, and, if so, when?*

As discussed more fully in Qwest's Reply Comments and OSS Reply Declaration, MCI proposed that Qwest modify its approach to correcting software defects by committing to correct such defects within specified timeframes. Qwest proposed an alternative approach that MCI rejected. The ACC reviewed MCI's allegations, *see* OSS Reply Exhibit LN-1, and concluded that they were not Section 271-affecting and that the CMP process was adequate to take care of MCI's concerns.

7. *Have the change management-related issues raised in this proceeding regarding system defects, logs, and loss and completion reports been addressed in prior Qwest Section 271 proceedings?*

Allegations pertaining to system defects and AT&T's Change Request for a system defect log were not previously raised by CLECs in earlier Qwest Section 271 proceedings. We address them on pages 12-16 of Qwest's Reply Comments and in Section I of the OSS Reply Declaration.

Qwest has routinely provided the Commission with information on its loss and completion reports in every Section 271 proceeding. None of the commenting parties in this proceeding raised questions regarding them. Eschelon's September 18, 2003, *ex parte* includes a copy of reply comments that Eschelon filed in Arizona on July 26, 2003, containing a reference to loss and completion reports. *See* Eschelon Ex Parte, WC Docket No. 03-194, September 18, 2003, resubmitted with page numbers on October 8, 2003, at 11-22. The Eschelon-initiated Change Request and "action item" referenced in those reply comments have been resolved, as have all but one of the Change Requests relating to this issue (the remaining one is in the CLEC test phase). Also, Eschelon's suggestion that Qwest should have to audit its loss and completion reports was expressly rejected by the ACC. *See In the Matter of U.S. West Communications, Inc.'s Compliance with Section 271 of the Telecommunications Act of 1996*, Docket No. T-00000A-97-0238, Decision No. 66242, September 16, 2003, at ¶¶ 100-103.

8. *What is the status of Qwest's implementation of the pricing directives included in paragraph 109 of the Arizona Corporation Commission's September 16, 2003, order? Has Qwest appealed any portion of this order, or does it intend to implement the ACC's directive?*

Paragraph 109 of the ACC's September 16, 2003, order requires Qwest to obtain ACC approval prior to implementing a charge for DS1 line conditioning. As explained more fully on pages 6-11 of Qwest's Reply Comments, Qwest does not charge for such conditioning. Qwest also has no plans to appeal the ACC's directive in connection with this issue.

9. *What is the status of Eschelon's complaint filed against Qwest in Washington in connection with billing?*

Eschelon recently filed a complaint against Qwest in U.S. District Court in Seattle, Washington. Claim 1 of that complaint alleges that Qwest has not adequately passed Daily Usage File ("DUF") records, and other usage records, to Eschelon to enable it to bill Switched Access to carriers. This claim applies to Arizona and